

# DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548

Graham  
RM-T

FILE: B-217704

DATE: August 2, 1985

MATTER OF: Vaughn Roofing Co. - Davis-Bacon Act  
Debarment

## DIGEST:

The Department of Labor recommended debarment of a contractor under the Davis-Bacon Act because the contractor had underpaid employees and had falsified certified payroll records. Based on our independent review of the record in this matter, we conclude that the contractor disregarded its obligations to its employees under the Act. There was a substantial violation of the Act in that the underpayment of employees was intentional. Therefore, the contractor will be debarred under the Act.

The Assistant Administrator, Employment Standards Administration, United States Department of Labor (DOL), by a letter dated July 20, 1984, recommended that the names Vaughn Roofing Co., a/k/a/ Eagle Roofing, Clasten Vaughn, individually and as President, and Quincy P. Miller individually and as General Manager, be placed on the ineligible bidders list for violations of the Davis-Bacon Act, 40 U.S.C. §§ 276a to 276a-5 (1982), which constituted a disregard of obligations to employees under the Act. For reasons that follow, we concur in DOL's recommendation.

Vaughn Roofing performed work under contracts Nos. N62474-81-C-2118; N62474-81-C-2396; N62474-81-C-7657; N62474-81-C-2883; N62474-81-C-8372; N62474-81-C-2935; N62474-81-C-8093; DAK01-82-C-0007; FO4626-81-C0084 at various locations in the San Francisco Bay area doing roofing work. These contracts were subject to the Davis-Bacon Act requirements that certain minimum wages be paid. Further, pursuant to 29 C.F.R. § 5.5(a) (1984), the contractor was to submit payroll records certified as to correctness and completeness.

The DOL found as a result of an investigation that employees were not paid the minimum wages and overtime compensation required pursuant to the Davis-Bacon Act, and that payrolls were falsified. The DOL informed us that by certified letter dated March 23, 1984, Vaughn Roofing Co. was given notice in detail of the violations with which it was charged, and that debarment was possible. Further, Vaughn Roofing Co. was given an opportunity for a hearing on the matter before an administrative law judge in accordance with 29 C.F.R. §§ 5.11(b) and 5.12(b) (1984). The DOL reported to us that while this letter was received, no hearing was requested.

After reexamining the record, DOL found that Vaughn Roofing Co. violated the Davis-Bacon Act without any factors militating against debarment. Therefore, DOL recommended that the names Vaughn Roofing Co., a/k/a Eagle Roofing, Clasten Vaughn individually and as President, and Quincy P. Miller individually and as General Manager, be placed on the ineligible bidders list for violations of the Davis-Bacon Act which constituted a disregard of obligations to employees under the Act.

The Davis-Bacon Act provides that the Comptroller General is to debar persons or firms whom he has found to have disregarded their obligations to employees under the Act. 40 U.S.C. § 276a-2. In Circular Letter B-3368, March 19, 1957, we distinguished between "technical violations" which result from inadvertence or legitimate disagreement concerning classification, and "substantial violations" which were intentional as demonstrated by bad faith or gross carelessness in observing obligations to employees with respect to the minimum wage provisions of the Davis-Bacon Act. Falsification of payroll records is a basis for debarment under the Davis-Bacon Act. See, e.g., Metropolitan Home Improvement Roofing Co., Inc., B-215945, January 25, 1985.

Based on our independent review of the record in this matter, we conclude that Vaughn Roofing Co. disregarded its obligations to employees under the Davis-Bacon Act. There was a substantial violation of the Davis-Bacon Act in that the underpayment of employees was intentional as demonstrated by Vaughn Roofing Co.'s bad faith in the falsification of certified payroll records.

Therefore, Vaughn Roofing Co., a/k/a/ Eagle Roofing, Clasten Vaughn individually and as President, and Quincy P. Miller General Manager, will be included on a list of ineligible bidders to be distributed to all departments of

the Government. Pursuant to statutory direction (40 U.S.C. § 276a-2), no contract shall be awarded to them or to any firm, corporation, partnership, or association in which they, or any of them, have an interest until 3 years have elapsed from the date of publication of such list.

A handwritten signature in cursive script, reading "Henry R. Wray".

Henry R. Wray  
Associate General Counsel